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Attorneys for Defendant Barbara Knox, M.D.

**IN THE UNITED STATES DISTRICT COURT**

## **FOR THE DISTRICT OF ALASKA AT FAIRBANKS**

8 JUSTIN ACKER, EMILY ACKER, E.A. (2019),  
I.A. (2020; JOHN DOE, JANE DOE, JOHN DOE  
9 JR. (2020), AND JANE DOE JR. (2016),

## Plaintiffs,

V.

PROVIDENCE HEALTH & SERVICES  
WASHINGTON d/b/a PROVIDENCE ALASKA  
MEDICAL CENTER, BARBARA KNOX, M.D.,  
and BRYANT SKINNER.

Case No. 4:22-cv-00017 SLG

### Defendants.

**DEFENDANT BARBARA KNOX, M.D.'S MOTION FOR  
PROTECTIVE ORDER**

COMES NOW, Barbara Knox, MD, by and through counsel, Farley & Graves, P.C., and hereby requests that the Court issue a Protective Order to bar the production of documents/materials created in conjunction with an internal investigation of complaints regarding Dr. Knox while she was employed at Providence. Dr. Knox further requests that her severance agreement with Providence remain confidential and not subject to disclosure. The

1 undersigned hereby certifies and affirms that he has attempted in good faith to resolve this matter  
2 without involving the Court.

3 Counsel for Providence has indicated that it will submit the documents which Dr. Knox  
4 wishes to be kept completely confidential for *in camera* review upon the filing of this motion.

5 **FACTS**

6 The present lawsuit is the subject of media attention.<sup>1</sup> In fact, Dr. Knox has been the  
7 subject of an ongoing, inaccurate, and malicious media smear campaign, which has been picked  
8 up by outlets including the Anchorage Daily News, the Wisconsin Watch Newsletter, and others.

9 As the Court is aware, Dr. Knox has already moved for summary judgment seeking  
10 dismissal of all allegations against her. Though Dr. Knox vehemently denies any wrongdoing as  
11 related to any party, the inclusion of the Doe family serves to incontrovertibly illustrate the need  
12 for the requested Protective Order. The attached media article states “a Sitka couple, named as  
13 John and Jane Doe in the complaint...lost custody of their infant son after an abuse diagnosis by  
14 Knox.”<sup>2</sup> This claim, published in black and white in a widely circulated public newspaper, is  
15 utterly false. Dr. Knox never conducted a medical evaluation of – let alone rendered a diagnosis  
16 for – John Doe, Jr. (2020). It follows that Dr. Knox was never a witness in any child in need of  
17 aid case related to John Doe, Jr. or his sister Jane Doe, Jr. (2016). Nor was Dr. Knox a witness  
18 in any criminal complaints against John Doe or Jane Doe.<sup>3</sup>

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20  
21 <sup>1</sup> Exhibit A, *Two Alaska families file federal lawsuit against embattled child abuse doctor, Providence alleging child abuse misdiagnoses*, July 14, 2022.

22 <sup>2</sup> *Id.* at p. 2 of 3.

23 <sup>3</sup> See, Docket 25.1 Filed 02/13/23 Page 2 of 3.

1       In short, lawsuit is a prime example of the continuation of the media – and now legal –  
2 campaign to baselessly defame and discredit Dr. Knox. The Doe family's inclusion as parties to  
3 this suit and in media articles attacking Dr. Knox's practice demonstrate her detractors'  
4 disregard/disinterest in the truth as they carry out their misguided crusade against her. The  
5 purpose of this motion is to prevent, or at least curtail, the ability of would-be false accusers  
6 twisting the barest – or nonexistent – facts to unfairly malign Dr. Knox.

7       Specifically, among the materials Dr. Knox wishes to keep completely confidential are  
8 an approximately 37-page investigation summary in Providence's possession. In addition,  
9 Providence has advised that they are also in possession of various in-house emails related to the  
10 personnel complaints against Dr. Knox. Those emails and investigation summary are related to  
11 complaints received by Providence from certain of Dr. Knox's coworkers. The investigation and  
12 emails have nothing to do with any party to this suit. The complaints were strictly related to  
13 administrative personnel issues and not the treatment/evaluation of I.A.

14       Further, Dr. Knox and Providence entered into a severance agreement when her  
15 employment at Providence ended. That document is expressly styled as confidential. It  
16 constitutes a compromised severance, the disclosure of which would have a disincentivizing  
17 effect upon parties to seek mutually agreeable compromise, while incentivizing litigation in  
18 otherwise settleable disputes. Again, the severance agreement has no bearing upon the fact  
19 germane to the question of Dr. Knox's care/evaluation of I.A.

20       Plaintiffs have agreed to keep Dr. Knox's other employment-related information  
21 confidential, only to be shared with the parties and witnesses in so far as necessary to develop  
22

1 claims or defenses in this case.<sup>4</sup> However, the scope of the forthcoming agreed-upon stipulation  
2 for a protective order is insufficient to adequately protect Dr. Knox.

3 **ARGUMENT**

4 Federal Rule 26(c) allows the Court to issue a protective order forbidding the disclosure  
5 of information that may cause a party “annoyance, embarrassment, oppression, or undue burden.”  
6 Fed. R. Civ. P. 26(c)(1). To grant a protective order, the Court must evaluate whether good cause  
7 exists for the restrictions imposed. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1130  
8 (9<sup>th</sup> Cir. 2003). To establish good cause, the moving party must demonstrate a specific prejudice  
9 or harm that will result without the protective order. Id.

10 Dr. Knox seeks to completely prevent the disclosure of the investigation summary, related  
11 emails and her severance agreement because (1) neither the internal employment complaints, nor  
12 the severance agreement, involve parties or matters at issue in the present lawsuit, and (2)  
13 complete nondisclosure is the only way to ensure that the otherwise irrelevant information  
14 contained in the investigation files cannot be used to unfairly and publicly malign Dr. Knox. The  
15 agreed-upon protective order, permitting disclosure but limiting access to parties/witnesses only  
16 as necessary for the purposes of this lawsuit, does not go far enough.

17 Regardless of your allegiance to one side or the other in this litigation, it is beyond dispute  
18 that the media attention is designed specifically to harm Dr. Knox. To be sure, child abuse  
19 pediatrics is a field of medicine charged with emotion. Even if there is a protective order limiting  
20

21 \_\_\_\_\_  
22 <sup>4</sup> As of the filing of this motion, the parties have yet to file a stipulation with respect to the confidentiality  
23 of general otherwise-discoverable employment-related materials, however the undersigned represents  
there is reasonable agreement among the parties regarding and expects the stipulation to be filed soon.

1 disclosure, it is fairly conceivable that protected information could, deliberately or inadvertently,  
2 find its way to the media. This would be particularly regrettable where, as stated, the coworker  
3 complaints and the severance agreement have no bearing upon Dr. Knox's care or medical  
4 evaluation of any child in this suit and are not otherwise germane to the claims lodged by their  
5 families. Keeping that information confidential will have no bearing on Plaintiffs' ability to  
6 prosecute their claims.

7 Finally, since materials that are the subject of this request are irrelevant to the Plaintiffs'  
8 claim, their disclosure (inadvertently or otherwise) to parties beyond those directly involved in  
9 the litigation would be particularly regrettable. Once they are disclosed, the damage is  
10 irreparable. Members of the media can perpetuate rumor, supposition, and innuendo seemingly  
11 without consequence. Serving media interest is not a legitimate use of the discovery rules, and  
12 should be guarded against by this Court, not only for Dr. Knox's sake, but also to preserve Court's  
13 integrity as a gatekeeper of discovery in an otherwise vehemently contested case.

14 Accordingly, Dr. Knox requests an Order barring disclosure of Providence's internal  
15 investigation summary, related emails and the severance agreement following an *in-camera*  
16 review, whereby the Court can confirm that those are otherwise harmful materials and have  
17 nothing to do with the Plaintiffs or the facts and circumstances giving rise to the present lawsuit.

18 **CONCLUSION**

19 The Court should order that the Providence-Knox severance agreement and materials  
20 pertaining to the internal personnel complaints are non-disclosable because (1) those  
21 investigations had no relation to the Acker case or Dr. Knox's involvement therewith, and (2) the  
22  
23

1 release of such information would cause Dr. Knox undue annoyance, embarrassment, oppression,  
2 and burden.

3 DATED this 9<sup>th</sup> of June 2023 at Anchorage, Alaska.

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10 Attorneys for Defendant Barbara Knox, M.D.

11 **CERTIFICATE OF SERVICE**

12 Pursuant to Civil Rule 5, I hereby certify that on  
13 the 9<sup>th</sup> day of June 2023, a true and correct copy of the  
foregoing was served CM/ECF electronically on the  
following person(s):

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